

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
BLUEFIELD DIVISION**

OHIO VALLEY ENVIRONMENTAL
COALITION, WEST VIRGINIA
HIGHLANDS CONSERVANCY,
APPALACHIAN VOICES, and
THE SIERRA CLUB,

Plaintiffs,

v.

Civil Action No. 1:19-cv-00576

BLUESTONE COAL CORPORATION,

Defendant.

PLAINTIFFS' RULE 26(a)(3) DISCLOSURES

Pursuant to Rule 26(a)(3) of the Federal Rules of Civil Procedure, Plaintiffs provide the following information about the evidence they may present at trial in this case:

1. Plaintiffs expect to call the following witnesses, whose addresses and telephone numbers have previously been provided in Rule 26(a)(1) and 26(a)(2) disclosures:

Dustin White

Erin Savage

Jonathan Shefftz

Wane Schneiter

Barry Doss

2. Plaintiffs may call the following witnesses, whose addresses and telephone numbers have previously been provided in 26(a)(1) disclosures:

Stephen Ball

George Stephens

Bill Johnson

In addition, Plaintiffs reserve the right to call any witnesses identified in Bluestone Coal Company's 26(a)(3) Disclosures and/or called by the Defendant at trial.

3. Plaintiffs reserve the right to use any exhibit introduced into evidence by Defendant.
4. Plaintiffs identify the following documents that they expect to offer and/or may offer as exhibits at trial:

Exhibit List

No.	Description	Will Use	May Use
1	Complaint in Civil Action No. 7:16-462 (W.D. Va.)		X
2.	Notice of Lodging Consent Decree Civil Action No. 7:16-462 (W.D. Va.)		X
3.	Appendix F to Consent Decree in Civil Action No. 7:16-462 (W.D. Va.) (Violation List)		X
4.	June 21, 2016 Approval of Modification 16 for Permit WV10006304		X
5.	List of Violations Pursuant to Consent Decree in Civil Action No. 7:16-462 (W.D. Va.)	X	
6.	Civil Docket Sheet for Case No. 7-16-462 (W.D. Va.)		X
7.	December 19, 2016 Consent Decree Case No. 7-16-462 (W.D. Va.)		X
8.	August 9, 2019, Letter of Extension from Permit WV1006304		X
9.	81 Fed. Reg 69856 (October 7, 2016)		X
10.	Letter to Lori Jonas from J. Michael Becher Re: <i>United States et al. v. Southern Coal Corporation et al. Civil Action No. 7:16-462 (W.D. Va)</i> , D.J. Ref. No. 90-5-1-1-10974		X
11.	U.S. Memorandum in Support of Unopposed Motion to Enter Consent Decree in Civil Action No. 7:16-462 (W.D. Va),		X
12.	Declaration of Lori Ireland Dated: December 2, 2016		X
13.	SMCRA Permit S00782 Renewal No. 6		X
14.	Permit WV1006304 dated March 12, 2014 (including Permit Rationale Page)	X	
15.	January 28, 2020 Letter of Extension for Permit WV1006304	X	

16.	DMRs from Permit WV1006304 from July 2018 through June 2020	X	
17.	Effluent Limitation Violation Responses Pursuant to Consent Decree in Civil Action No. 7:16-462 (W.D. Va.) from 3d Quarter 2018 through 2d Quarter 2020	X	
18.	Transcript of April 16, 2020 Deposition of Roland B. Doss		X
19.	Transcript of March 20, 2020 Deposition of George William Stephens		X
20.	Transcript of February 20, 2020 Deposition of Stephen Ball		X
21.	Transcript of February 20, 2020 Deposition of Bill Johnson (dated February 19, 2020)		X
22.	Reissuance Application Permit WV1006304 Dated April 10, 2018		X
23.	2016 WV Integrated Water Quality Monitoring and Assessment Report and § 303(d) List		X
24.	Fish Tissue Survey Results for Permit WV1006304 Outlets 003, 005, and 007, for Sampling Conducted September 23, 2019.(BCC005996 through BCC006027)		X
25.	March 31, 2020 Quarterly Report Pursuant to Consent Decree 7:16-462 (W.D. Va.)		X
26.	June 4, 2019 60-Day Notice Letter and Return Receipts		X
27.	Quarterly Compliance Reports Pursuant to Consent Decree in Civil Action No. 7:16-462 (W.D. Va.) from 3d Quarter 2018 through 2d Quarter 2020		X
28.	Drainage and Stream Delineation Map for WV Mining Permit S7282, Dated 11/27/2000		X
29.	Site Plan for WV Mining Permit S7282 Dated 4/12/2001		X
30.	April 2, 2018 Letter from WVDEP Denying Permit WV1006304 NPM 17		X
31.	July 11, 2019 Administrative Civil Penalty Assessment Notice		X
32.	Proposed Consent Order, WVDEP dated July 11, 2019 (including 2 attachments)		X
33.	Email re: Dynamic Energy, Inc. WV0062961 & Bluestone Coal Corp – WV1006304- NPM(17), from Michael F. Mertz to Steve Hamilton, dated March 24, 2017		X
34.	Email re: Dynamic Energy, Inc. – WV0062961-NPM(9) fish tissue mod, from Steve Hamilton to Michael F. Mertz, dated November 29, 2017		X
35.	SeHawk 200 Lease Proposal, Frontier Water Systems, dated September 6, 2019 (BCC000841 through BCC000864)	X	
36.	Email re: Bioreactor from Dan Dudek to George Stephens dated January 22, 2020 (BCC000010 through BCC000018)		X
38.	October 29, 2019 Email from Barry Doss to Pete Grant RE: Bluestone Fish Tissue Information for NPDES Renewal (including entire thread) (BCC000061 through BCC000065)		

39.	December 4, 2019 Email from Barry Doss to George Stephens re: Bluestone Fish Tissue, Sites 6 and 8 (BCC000083 through BCC000087)		X
40.	January 15, 2020 Email from Barry Doss to Ben Bryant and George Stephens re: Bluestone Red Fox Fish Tissue, Sites 6 and 9 (BCC000054 through BCC000055)		X
41.	Curriculum Vitae for Jonathan Shefftz	X	
42.	Curriculum Vitae for Wane Schneider	X	
43.	Figure 1 from Schneider Report (Outlet Locations)	X	
44.	Table 1 from Schneider Report (Outlet Flow Rates)	X	
45.	Table 2 from Schneider Report (Number of Standard Process Modules to Treat Outlet Flow Rates)	X	
46.	Table 3 from Schneider Report (Treatment Process Siting Area Options)	X	
47.	Table 1 from Shefftz Report (Court Decisions that have Adopted WACC-Based Economic Benefit Calculations)		X
48.	Table 2 from Shefftz Report (Weighted-Average Cost of Capital)	X	
49.	Table 3 from Shefftz Report (Economic Benefit Calculations for Delayed and Avoided Compliance Measures)	X	
50.	Table 4 from Shefftz Report (Depreciation Schedule Tax Shield Present Value Factors)	X	
51.	Table 5 from Shefftz Report (Summary of Economic Benefit Calculations and Results)	X	
52.	Report of Roland Doss including all figures, tables and attachments		X
53.	Fish Tissue Survey Results for Permit S007282 Outlet 008 (BCC005950 through BCC005971)		X
54.	February 4, 2020 Email from Dustin Johnson to George and DEP-Bluestone Payment Plan (BCC005573 through BCC005606)		X
55.	February 28, 2020 Email from Ben Bryant to Ann Bradshaw (BCC005670 through BCC005673)		X
56.	Frontier Water Systems Biological Metals Treatment EVOLVED (BCC000007 through BCC000009)		X
57.	October 1, 2019 Email from George Stephens to Dan Dudek RE: Colleague in WV (BCC000003 through BCC000004)		X
58.	October 11, 2019 Email from George Stephens to Tim Pickett Re: Colleague in WV (BCC000001 through BCC000002)		X
59.	July 25, 2019 Email from Barry Doss to George Stephens (BCC005666 through BCC005669)		X
60.	October 24, 2019 Email from Barry Doss to George Stephens (BCC000072 through BCC000073)		X
61.	October 29, 2019 Email from Barry Doss to Pete Gant (BCC000061 through BCC000065)		X
62.	December 4, 2019 Email from Barry Doss to George Stephens (BCC000083 through BCC000087)		X
63.	December 18, 2019 Email from Barry Doss to Pete Gant (BCC005870 through BCC005874)		X

64.	June 1, 2016 Email from Ben Bryant to Lori Jonas and attachment (BCC002495 through BCC002498)		X
65.	February 19, 2020 Email from Barry Doss to Pete Gant and Bill Jonson (BCC005945 through BCC005949)		X
66.	February 17, 2020 Email from George Stephens to Bill Jonson, Ben Bryant and Steve Ball (BCC005942 through BCC005943)		X
68.	Consent Judgment, Civil Action No. 7:19-354 (W.D. Va.) Dated April 2 2020		X
69.	U.S. EPA, 2014 <u>Reference Guide to Treatment Technologies for Mining Influenced Water</u> EPA 542-R-14-001		X
70.	Sandy and DiSante, 2010 <u>Review of Available Technologies for the Removal of Selenium from Water</u>		X

Respectfully Submitted,

/s/ J. Michael Becher

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BLUESTONE COAL CORPORATION,

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CERTIFICATE OF SERVICE

I, J. Michael Becher hereby certify that on July 10, 2020, I served the foregoing Plaintiffs' Rule

26(a)(3) Disclosures by email to the following:

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Respectfully Submitted,

/s/ J. Michael Becher
J. Michael Becher
Appalachian Mountain Advocates